

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

Roy W. Brooks,)
Plaintiff,) **ORDER**
vs.)
Dave Marion, et. al.,) Case No. 1:13-cv-018
Defendants.)

On July 9, 2013, plaintiff filed a motion requesting court-appointed counsel on the grounds that his lack of legal training and the complexity of his case prevent him from properly representing himself. On July 15, 2013, the court issued an order denying his motion without prejudice.

On July 23, 2013, plaintiff filed a motion for reconsideration of his request for court-appointed counsel. He asserts that appointment of counsel is now warranted given recent events, which he summarizes as follows:

On January 9, 2013, plaintiff filed a charge against the City of Flasher with the North Dakota Department of labor . . . for the violations occurred in plaintiff exercising rights. No decision has been rendered from the labor board to this date. On July 12, 2013, a letter was sent to Rita Bartholomew, Investigator, from attorney Scott K. Porsborg of the law firm: Smith, Bakke, Porsborg, Schweigert & Armstrong. Mr Marion does not work for the city as a commissioner any longer. Attorney Porsborg's letter to the labor board impedes on a constitutionally protected right I was exercising in filing the charge against the City. His assertion that "...We are uncertain wether the Labor Department will continue to process this charge in light of the fact that a federal lawsuit has been filed on the same subject matter" has caused the following effect: On July 15, 2013, Ms. Bartholomew called to inform me that she is no longer processing the charge and has in fact sent it to the Attorney General's office, along with the copy of the lawsuit that Porsborg sent, in order to discern "same subject matter." The two are clearly distinct. In the first, the charge with the labor board is against the city. The complaint with this Court is against Mr. Marion and the city was only included by this Court since Mr. Marion was an agent thereof. Plaintiff believes, as was the actions taken by the labor department, that attorney Porsborg knowingly sent the letter and lawsuit as a cause to cease the

process of the charge from moving forward.
(Docket No. 15).

The court appreciates that plaintiff wants to a timely resolution to his pending state matter. Nevertheless, the court finds no basis for reversing its previous decision regarding the appointment of counsel in the above-entitled action. The posture of the instant case remains unchanged. Plaintiff must understand that this court can neither expedite consideration of the charge of discrimination he filed against the City of Flasher with the State Labor Department nor appoint counsel to represent him in any state proceedings. Plaintiff's motion for reconsideration (Docket No. 15) is therefore **DENIED**.

IT IS SO ORDERED.

Dated this 26th day of July, 2013.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr., Magistrate Judge
United States District Court